



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

TODD E. KISER
Acting Commissioner

Insurance Department

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: August 11, 2014

Time: 9:00AM

Place: East Bldg., Copper Room

MEMBERS

COMMISSION MEMBERS

Chair, Jeff Wiener (*Insurer, Salt Lake Cnty*) Matt Sager, (*Insurer, Maricopa Cnty, AZ*)
Co-Chair, Larry Blake (*Agency, Washington Cnty*) Kirk Smith, (*Agency, Weber Cnty*)
Sylvia Andersen, (*Public Member, Salt Lake Cnty*)

DEPARTMENT STAFF

Perri Babalis, *AG Counsel* Brett Barratt, *Deputy Comm.* Mark Kleinfeld, *ALJ*
Suzette Green-Wright, *MC Dir.* Tammy Greening, *Examiner* Jilene Whitby, *PIO Recorder*

AGENDA

General Session: (Open to the Public)

- **Welcome /** Jeff Wiener, Chair
- **Adopt Minutes of Previous Meeting**
- **Reports**
 - Concur with Licensee Report / Tammy
 - Concur with Complaint & Enforcement Report / Suzette
 - Request for Dual Licensee Expedited Request: None
 - Request for Attorney Exemption: None
- **Administrative Proceedings Action /** Mark Kleinfeld, ALJ
 - Stipulation & Order: Magellan Title
 - Request for a Hearing: None
 - Order to Show Cause: None
 - Informal Adjudicative Proceeding & Order: None
 - Notice of Formal Adjudicative Proceeding: None
- **New Business**
 - Discuss the Need for Clarification of Rules Regarding Retention of Escrow Records / Matt/ Jeff/ Brett/ Perri
 - 2014 Title Assessment / Tammy
- **Old Business**
 - Discuss Proposed Rule R592-16: Prohibited Escrow Settlement Closing Transactions / Jeff
- **Other Business**
 - Legislative Update on Potential Title Legislation as Per the Business & Labor Interim Meeting in June / Brett
 - Discuss Suggested Agenda Item of "Hot Topics"
 - 2014 Title Assessment / Tammy

Executive Session (Closed to Public)

General Session: (Open to the Public)

- **Adjourn:**
- **Next Meeting:** September 8, 2014, Copper Room

2014 Meeting Schedule
(2nd Monday except in October)

~~Jul 14~~ Aug 11 Sept 8 Oct 20 Nov 10 Dec 8



Insurance Department

State of Utah

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State of Utah Title and Escrow Commission Meeting Meeting Information

Date: July 14, 2014

Time: 9:00AM

Place: East Bldg., Copper Room

MEMBERS

(Attendees=x)

COMMISSION MEMBERS

xChair, Kirk Smith, *Weber Cnty*

xCo-Chair, Larry Blake, *Washington Cnty*

xJeff Wiener, *Salt Lake Cnty*

xMatt Sager, *Maricopa Cnty, AZ*

xSylvia Andersen, *Public Member*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel*

xSuzette Green-Wright, *MC Dir.*

xBrett Barratt, *Deputy Comm.*

xTammy Greening, *Examiner
Public*

Mark Kleinfeld, *ALJ*

xJilene Whitby, *PIO Recorder*

David Moore

Petet Stevens

Bob Rice

Blake Heiner

Tige Garner

Carol Yamamoto

Matt Ryder

Bill Rowley

Mike Smith

Wade Taylor

MINUTES

General Session: (Open to the Public)

- **Welcome / Kirk Smith, Chair**
At 9:04am Kirk started the meeting. He noted Jeff would be a little late.
- **Adopt Minutes of Previous Meeting**
Motion to adopt the minutes by Sylvia, seconded by Larry, vote was unanimous.
- **Annual Review of Open Meetings' Act / Perri**
Provided handout prepared by legislative council. Perri noted changes made legislatively to the Open and Public Meetings Act. She reviewed main points that dealt with the Commission and pointed out changes recently made to the Act, including: attachments are to be provided in an electronic or hard copy form; minutes are to be posted within three days of a meeting; the Utah Public Notice Website is to have the minutes and audio of meeting posted to it; allows for electronic meetings; and noted penalties for violating the Act. Perri also reviewed requirements for a closed meeting and reasons to hold an emergency meeting, along with notification requirements.
- **Reports**
 - **Concur with Licensee Report / Tammy**
Motion by Larry to concur with the report, seconded by Sylvia, vote was unanimous.
 - **Concur with Complaint & Enforcement Report / Suzette**
Suzette noted that they are getting caught-up on old cases. Many of them of very complicated.
 - Matt asked for the status of E-case 3356. Tammy said respondent failed to respond to notices sent by the Department and the check they used to pay for a forfeiture bounced.
 - **Motion** by Matt to concur with the report, seconded by Larry, vote was unanimous.
 - **Request for Dual Licensee Expedited Request: None**

- **Request for Attorney Exemption:** Kyle C. Dart
Mr. Dart was not present. **Motion** by Sylvia to approve the Mr. Dart's exemption, seconded by Matt, vote was unanimous.
- **Administrative Proceedings Action / Mark Kleinfeld, ALJ**
 - **Stipulation & Order:** None
 - **Request for a Hearing:** None
 - **Order to Show Cause:** None
 - **Informal Adjudicative Proceeding & Order:** None
 - **Notice of Formal Adjudicative Proceeding:** None
- **New Business**
 - **Update on Rulemaking Process for R592-2**
Motion by Matt to remove from agenda since there is no action to be taken on this rule, seconded by Larry, vote was unanimous.
 - **Discuss the Need for Clarification of Rules Regarding Retention of Escrow Records / Matt & Jeff**
Matt could find no requirements for retention of escrow records. A rule is needed to define retention requirements.
 - Larry referred to handout, Master Closing Instructions from Wells Fargo, requiring documents to be destroyed after a closing. Due to such instructions they need to move quickly to provide clear direction to the Title industry. Matt noted the law needs to comply with federal (CFPB) requirements. Jeff also noted the need to protect consumers.
 - The law requires papers from a search to be kept 15 years. There is a need to define which records are to be retained, those to be destroyed and who will do it.
 - Jeff said Section 31A-20-110 gives some guidance. Tammy said 31A-23a-412(5)(a) also applies to escrow. Jeff asked Perri and the Department to come back with their view as to whether this is a definitional change or if changes need to be made to the statute.
 - **Motion** by Matt to put this on next month's agenda and everyone review the statutes, specifically 31A-20-110, 31A-23a-412(5)(a) and Financial Institutions Title 7-22 to see what is needed to clarify the issue of escrow records retention. Larry asked if the Department could provide a letter or bulletin that would say that records should be retained for a certain period of time. Brett said the Department will review this and report to the Commission next month.
 - Jeff noted the minimum retention period would be current year plus 3 years as per 31A-23a-412.
 - Pete said the Wells Fargo wording is referring to lender, not title information. Jeff didn't think the title file could be separated from the escrow file.
 - **Motion** seconded by Larry, vote was unanimous.
- **Old Business**
 - **Discuss Proposed Rule R592-16: Prohibited Escrow Settlement Closing Transactions / Jeff**
This rule is an attempt to move from a bulletin to a rule. He referred to a fraudulent split closing in a recent newspaper article. We need to prevent these by rule if we can.
 - Larry noted that as long as we continue to do split closings, there is no way to guarantee the timing of the closing and the recording as noted in R592-16-4(2). Further discussion concluded that the wording in number 2 was already covered in Subsection (1) and in 31A-23a-406. Subsection 2 was deleted.
 - Jeff said that if they are to handle funds a policy must be issued as noted in 31A-23a-406.

- Pete expressed concern that the bulletin was being gutted and the rule was telling people what they could not do rather than giving direction. He felt the addendum should be in the rule. He suggested split closings be prohibited to protect everyone. One person suggested that if flip transactions are done back to back they should be done at one location. Larry said the Real Estate community does not use the addendum nor is it used in a flip.
- Jeff made a **motion** to strike R592-16-4(2) and remove the number 1 from the first subsection. He encouraged everyone to review the rule and come prepared to discuss it next month. Keep on the agenda. Larry seconded the motion. Matt asked that the “/” in “sales/purchases” in R592-16-2(1) be replaced with “and” as done in (2) and be included in the motion. Carol emphasized that each transaction should stand alone. It seemed like this process was creating a rule that was too wordy and complex.
- The vote was unanimous in favor of the **motion** that included Matt’s changes.
- **Other Business**
 - **Legislative – Update Re: Business & Labor Interim Meeting 7-16-2014**
Brett confirmed that the Business and Labor Interim Committee will not discuss title issues at their next meeting but anticipate doing so in the fall.
 - **Elect Chair and Co-Chair (31A-2-403(5)) / Perri**
Motion by Larry to make Jeff Weiner Chair with Kirk Smith co-chair, Sylvia seconded it and the vote was unanimous.
 - Brett asked Suzette to gather the **attorney exemption information** in the packets and destroy them. They have private information on the last two pages.
 - Kirk **recognized** the presence of Commissioner Kiser.

Executive Session (Closed to Public)

General Session: (Open to the Public)

- **Adjourn:** **Motion** to adjourn by Matt at 10:21am, seconded by Jeff, vote was unanimous.
- **Next Meeting:** August 11, 2014, Copper Room

2014 Meeting Schedule
(2nd Monday except in October)

Jul 14	Aug 11	Sept 8	Oct 20	Nov 10	Dec 8
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Title Agency Monthly Report

For the month of July, 2014

License Renewal

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
6295	HICKMAN LAND TITLE COMPANY	5/16/2002	7/31/2016			TE
6295	HICKMAN LAND TITLE COMPANY	5/16/2002	7/31/2016			TMR
6295	HICKMAN LAND TITLE COMPANY	5/16/2002	7/31/2016			TS
15481	MORGAN TITLE & ESCROW INC	5/26/2006	7/31/2016			TE
15481	MORGAN TITLE & ESCROW INC	5/26/2006	7/31/2016			TS
15687	PLACER TITLE INSURANCE AGENCY OF UTA	7/19/2006	7/31/2016			TE
15687	PLACER TITLE INSURANCE AGENCY OF UTA	7/19/2006	7/31/2016			TS
6556	PROVO ABSTRACT COMPANY, INC	5/16/2002	7/31/2016			TE
6556	PROVO ABSTRACT COMPANY, INC	5/16/2002	7/31/2016			TS
6359	PROVO LAND TITLE COMPANY	5/16/2002	7/31/2016			TE
6359	PROVO LAND TITLE COMPANY	5/16/2002	7/31/2016			TS

Title Individual Monthly Report

For the month of July, 2014

New License

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
1571880	ROBERTA D DYER	07-29-2014	01-31-2017			TE
1572557	GONZALO SEVILLA	07-31-2014	05-31-2017			TE

License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
137840	GREGORY W CURTIS	12-08-2006	07-31-2016			TMR
122079	Diana Lee Adams	12-12-2005	07-31-2016			TE
32880	Robin McLaren Aubrey	05-16-2002	07-31-2016			TE
32880	Robin McLaren Aubrey	05-16-2002	07-31-2016			TMR
32880	Robin McLaren Aubrey	05-16-2002	07-31-2016			TS
104155	CATHERINE AUGASON	07-27-2004	07-31-2016			TE
103099	JEREMY D BAWDEN	06-23-2004	07-31-2016			TE
77953	CRYSTAL D BOND	06-07-2002	07-31-2016			TE
77953	CRYSTAL D BOND	06-07-2002	07-31-2016			TMR
96853	CHRISTIN ELIZABETH BRZOSKA	12-12-2003	07-31-2016			TE
93930	KEVIN L KING	09-08-2003	07-31-2016			TE
151733	KARL ANTHONY MINNICK	09-10-2007	07-31-2016			TS
29108	DAN W. JONES	05-16-2002	07-31-2016			TS
103733	GAYLEN GONZALEZ	07-13-2004	07-31-2016			TS

Title Individual Monthly Report

For the month of July, 2014

License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
93796	JENNY POTTER GORING	08-28-2003	07-31-2016			TE
101430	DAWNA BEAN HENDRICKS	04-29-2004	07-31-2016			TE
36424	KELI IVIE	05-16-2002	07-31-2016			TE
36424	KELI IVIE	05-16-2002	07-31-2016			TMR
72743	FRANKLIN S IVORY	05-16-2002	07-31-2016			TMR
7460	HEATHER A JACKSON	05-16-2002	07-31-2016			TE
126967	SYLVIA JOHNSON	06-02-2006	07-31-2016			TE
34424	MELANIE B PADOVICH	05-16-2002	07-31-2016			TE
39660	LAURIE J CALLAHAN	05-16-2002	07-31-2016			TE
128205	BROOKE MOCK	05-03-2006	07-31-2016			TE
93930	KEVIN L KING	09-08-2003	07-31-2016			TS
43653	NINA J KNOWLES	05-16-2002	07-31-2016			TE
43653	NINA J KNOWLES	05-16-2002	07-31-2016			TS
53288	JOHN ANTHONY LARA	05-16-2002	07-31-2016			TE
53288	JOHN ANTHONY LARA	05-16-2002	07-31-2016			TS
36042	MARGIE LUDINGTON-GLEAVE	05-16-2002	07-31-2016			TE
44800	Sauna R Mayeda	05-16-2002	07-31-2016			TE
44800	Sauna R Mayeda	05-16-2002	07-31-2016			TS
44931	NATALIE A. MCKEE	07-29-2003	07-31-2016			TE
39660	LAURIE J CALLAHAN	05-16-2002	07-31-2016			TS

Title Individual Monthly Report

For the month of July, 2014

License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
29108	DAN W. JONES	05-16-2002	07-31-2016			TE
34733	ANGIE MCKINNON	05-16-2002	07-31-2016			TE
37565	JIM C MORRIS	05-16-2002	07-31-2016			TE
37565	JIM C MORRIS	05-16-2002	07-31-2016			TS
36195	JARROD L MUDROCK	05-16-2002	07-31-2016			TE
36195	JARROD L MUDROCK	05-16-2002	07-31-2016			TS
79695	KRISTINA L NELSON	07-31-2002	07-31-2016			TE
101339	DOUGLAS M NEWELL	04-27-2004	07-31-2016			TE
101339	DOUGLAS M NEWELL	04-27-2004	07-31-2016			TS
35987	LINDA B OGDEN	05-16-2002	07-31-2016			TE
35987	LINDA B OGDEN	05-16-2002	07-31-2016			TS
35173	GLENNA F OLIVER	05-16-2002	07-31-2016			TE
34733	ANGIE MCKINNON	05-16-2002	07-31-2016			TS
34165	LORI A SUTTON	05-16-2002	07-31-2016			TE
54412	DAVID A PEDRAZAS	11-03-2005	07-31-2016			TS
54412	DAVID A PEDRAZAS	11-03-2005	07-31-2016			TE
1396590	CAROL PAULI	08-02-2009	07-31-2016			TE
55163	ADAM S PHILLIPS	05-16-2002	07-31-2016			TMR
55163	ADAM S PHILLIPS	05-16-2002	07-31-2016			TS
1416077	TRACY A BYWATER-WILLE	02-22-2010	07-31-2016			TE

Title Individual Monthly Report

For the month of July, 2014

License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
44930	EMILIE G PINKELMAN	05-16-2002	07-31-2016			TE
84380	ASHLEE H REEDER	11-27-2002	07-31-2016			TE
54186	VONNA REES	05-16-2002	07-31-2016			TS
37721	VICTORIA J WALKER	05-16-2002	07-31-2016			TE
30483	DONNA L SCERBO	05-16-2002	07-31-2016			TE
35173	GLENNA F OLIVER	05-16-2002	07-31-2016			TS
33612	KELLI DAWN SHAW	05-16-2002	07-31-2016			TE
55163	ADAM S PHILLIPS	05-16-2002	07-31-2016			TE
80424	STEVEN PAUL TROOP	08-15-2003	07-31-2016			TE
31187	DENIECE A REYES	05-16-2002	07-31-2016			TE
37616	JANET O WELLS	05-16-2002	07-31-2016			TE
30799	RONDA WILLIAMS	05-16-2002	07-31-2016			TE
41619	TINA S WILLIAMS	05-16-2002	07-31-2016			TE
41619	TINA S WILLIAMS	05-16-2002	07-31-2016			TS
33612	KELLI DAWN SHAW	05-16-2002	07-31-2016			TS
80424	STEVEN PAUL TROOP	08-15-2003	07-31-2016			TS
76661	DARRELL G SIMMONS	05-16-2002	07-31-2016			TMR
42692	DON B THOMPSON	10-06-2003	07-31-2016			TS
42692	DON B THOMPSON	10-06-2003	07-31-2016			TE
1414020	ENOCH A WADSWORTH	01-26-2010	07-31-2016			TE

Title Individual Monthly Report

For the month of July, 2014

License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
124728	MICHAEL P TENNYSEN	01-18-2006	07-31-2016			TE
100005	AMY MICHELLE UPCHURCH	03-30-2004	07-31-2016			TS
30483	DONNA L SCERBO	05-16-2002	07-31-2016			TS
100005	AMY MICHELLE UPCHURCH	03-30-2004	07-31-2016			TE

Lapse Licenses

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
149147	DIANA LEE HARDY	08-03-2007	06-30-2014	7/30/2014		TE
28991	BRIDGET M DODGE	05-16-2002	06-30-2014	7/30/2014		TE
33459	LEROY W SPRIGGS	05-16-2002	06-30-2014	7/30/2014		TE
33459	LEROY W SPRIGGS	05-16-2002	06-30-2014	7/30/2014		TS
43181	THOMAS S FROST	05-16-2002	06-30-2014	7/30/2014		TMR
53523	THOMAS ROY HARE	05-16-2002	06-30-2014	7/30/2014		TE
76008	SHEILA SULLIVAN	05-16-2002	06-30-2014	7/30/2014		TE
119283	JENNIFER TRUE SHAKESPEAR	09-29-2005	06-30-2014	7/30/2014		TE
127673	TODD M CARPENTER	04-12-2006	06-30-2014	7/30/2014		TE
76008	SHEILA SULLIVAN	05-16-2002	06-30-2014	7/30/2014		TS
151977	NICOLE MARIE SHUPE	09-28-2007	06-30-2014	7/30/2014		TE
1476079	ALEJANDRO CANCIO	11-09-2011	06-30-2014	7/30/2014		TMR

Title Individual Monthly Report

For the month of July, 2014

Lapse Licenses

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
1482992	JEROMY GLEN IVIE	02-10-2012	06-30-2014	7/30/2014		TE
1482992	JEROMY GLEN IVIE	02-10-2012	06-30-2014	7/30/2014		TS
53523	THOMAS ROY HARE	05-16-2002	06-30-2014	7/30/2014		TS
120441	CHERYL A BURNINGHAM	10-29-2005	06-30-2014	7/30/2014		TE

Reinstated License

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
93017	JUSTIN J WILSON	08-07-2003	06-30-2016	7/30/2014	7/10/2014	TMR
101657	ALISON H MCCOY	05-13-2004	06-30-2016	7/30/2014	7/8/2014	TE
101657	ALISON H MCCOY	05-13-2004	06-30-2016	7/30/2014	7/8/2014	TS

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Telephone: 801-366-0375
Facsimile: 801-366-0378

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

UTAH INSURANCE DEPARTMENT, Complainant, v. MAGELLAN TITLE, License No. 403622, 6925 S. Union Park Ctr., Suite 400, Midvale, UT 84047 Respondent.	STIPULATION AND ORDER Docket No. 2014-075 PC Enf. Case No. 3511 Mark E. Kleinfield Administrative Law Judge
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STIPULATION

The Utah Insurance Department ("Department"), by and through its legal counsel, Gary D. Josephson, Assistant Attorney General, and Magellan Title, a Utah licensed title agency ("Respondent"), hereby stipulate and agree as follows:

1. Respondent Magellan Title is an active Utah licensed title insurance agency authorized to do business in the State of Utah under License No. 403622. Respondent's address is 6925 South Union Park Ctr., #400, Midvale, UT 84047.
2. The Department has jurisdiction over the parties and subject matter of this

administrative action.

3. Respondent acknowledges notice of agency action pursuant to Utah Code § 63G-4-210; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code § 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

4. Respondent knows of its right to be represented by legal counsel and waives this right by either having sought the advice of legal counsel or by having voluntarily chosen not to do so.

5. This signed Stipulation and the signed and adopted Order by both the Insurance Commissioner and the Title and Escrow Commission, along with the Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

6. If an administrative hearing were held, the Department could offer evidence that would support the Findings of Fact presented below; therefore, the Findings of Fact and Conclusions of Law presented below are hereby agreed to.

7. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.

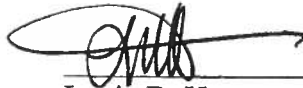
8. The only promises, agreement and understanding that the parties have regarding this matter are contained in this Stipulation.

9. Respondent enters into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.

10. The persons signing this Stipulation on behalf of the named parties hereby affirm

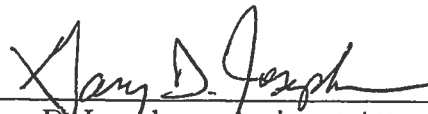
that they are authorized to sign and bind the parties.

Dated this 21 day of July 2nd, 2014.



Louie D. Hamner, President
Magellan Title

Dated this 28th day of July, 2014.



Gary D. Josephson, Assistant Attorney General
Utah Insurance Department

Based upon the foregoing Stipulation and Department file, the Administrative Law Judge makes the following Findings of Fact:

FINDINGS OF FACT

1. Respondent's license lapsed on February 28, 2014 and was reinstated on March 4, 2014. During this license lapsed period, Respondent conducted title and escrow insurance business.
2. Respondent's employee, Chris Sparks, had his individual producer license lapse on October 31, 2013. His license was reinstated on January 17, 2014. Respondent's designation

of Sparks had also lapsed during this time period. During this license lapsed period, Sparks conducted five escrow closings.

3. Respondent's employee, Dustin Wright, had his individual producer license lapse on December 31, 2013. His license was reinstated on January 21, 2014. Respondent's designation of Wright had also lapsed during this time period. During this license lapsed period, Wright conducted eight closings.

4. Respondent's employee, Lesley Ulibarri, conducted title and escrow business on its behalf, while at the same time maintaining an active real estate license and receiving compensation for real estate business activity.

5. Respondent was cooperative during the investigation and took full responsibility for the violations.

6. On June 4, 2014, Respondent agreed to an administrative forfeiture in the amount of \$5,000.00.

Based upon the foregoing Stipulation and Findings of Fact, the Administrative Law Judge enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Respondent violated Utah Code Section 31A-23a-103 because Respondent and two of its agents conducting title and escrow business during the time period that the licenses were lapsed.

2. Respondent violated Utah Code Section 31A-23a-302 because Respondent's

required agency designations of producers had lapsed with the licenses.

3. As an unfair method of competition, Respondent violated Utah Adm. Code R592-6-4(13) by compensating one of its employees, who, at the same time, was licensed and receiving compensation for conducting real estate business.

4. An administrative forfeiture in the amount of \$5,000.00 is reasonable and appropriate in this matter.

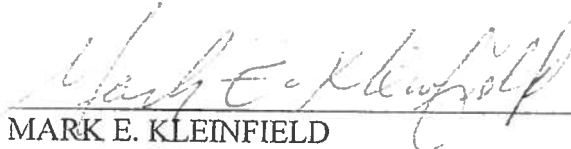
RECOMMENDED ORDER

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

Respondent, Magellan Title is assessed an administrative forfeiture in the amount of \$5,000.00 to be paid to the Department within thirty (30) days of the date of the Commission's Order.

DATED this 29th day of July, 2014.

TODD E. KISER
Insurance Commissioner



MARK E. KLEINFELD
Administrative Law Judge
Utah Insurance Department

ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY

By a vote of _____ to _____, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended above.

DATED this _____ day of _____, 2014.

Chairman
Title and Escrow Commission

NOTIFICATION TO RESPONDENT

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on this date, a true and correct copy of the
STIPULATION and ORDER were mailed, postage prepaid, to the following:

**LOUIE D. HAMNER, PRESIDENT
MAGELLAN TITLE
6925 S UNION PARK CTR. STE 400
MIDVALE, UTAH 84047**

Dated this _____ day of _____, 2014.

LINDA HARDY
UTAH INSURANCE DEPARTMENT
STATE OFFICE BUILDING, ROOM 3110
SALT LAKE CITY, UT 84114-6901

R592. Insurance, Title and Escrow Commission.

Rule R592-16. Prohibited Escrow Settlement Closing Transactions.

R592-16-1. Authority.

This rule is promulgated pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer or individual title insurance producer.

R592-16-2. Purpose and Scope.

(1) The purpose of this rule is to identify certain escrow practices involving two or more back to back sales ~~[/]~~ and purchases of the same parcel of real property, which the Commission finds may ~~[often involve fraud or]~~ violate the Insurance Code or rules, and therefore it is necessary to identify and prohibit such conduct.

(2) These practices include sales ~~[/]~~ and purchases of the same parcel of real property where funds from the final purchaser are received by the initial seller despite having no contractual privity and those where no statutory authority exists for the title insurer, agency title insurance producer, or individual title insurance producer to conduct one or more of such escrows under Section 31A-23a-406 and Rule R592-6-4(5).

(3) This rule applies to all title insurers, agency title insurance producers, individual title insurance producers, and all employees, representatives, and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

R592-16-3. Definitions.

For the purpose of this rule the Commission adopts the definitions as set forth in Section 31A-1-301 and the following:

(1) "Land flip" means two or more escrows ~~[for the sale/purchase of]~~ involving real property ~~[that involve substantially]~~ where the following circumstances exist:

(a) Buyer B contracts with Seller [A]A[] to buy ~~[contracts with Buyer "B" to sell]~~ a parcel of real property;

(b) Buyer ~~[A]B[]~~ then contracts with Buyer ~~[A]C[]~~ to sell the same parcel of real property; and

(c) Buyer ~~[A]B[]~~ anticipates ~~[acquiring]~~ buying and selling the same parcel ~~[and selling]~~ at or near ~~[the parcel at or near]~~ the same time to Buyer C.

R592-16-4. Permitted Escrows of Flip Transactions.

Title insurers, agency title insurance producers, and individual title insurance producers are permitted to conduct escrows involving a land flip~~[,]~~ if each real estate transaction stands on its own and the following circumstances exist:

~~[—(1) The transaction between Seller "A" and Buyer "B" close independently from the transaction between Buyer "B" and Buyer "C";]~~

~~[(2)] [(1)] [The funds deposited by Buyer "C" may not be used to fund as part of the transaction closing between Seller "A" and Buyer "B."] Buyer ["B"], in the transaction with Seller ["A"], may not use and must provide funds [independent] separate from [of] the funds provided by Buyer ["C"] [generated from the closing] as part of the transaction between Buyer B [by with] and Buyer ["C"]~~

~~[(3) One or more policies of title insurance required under Section 31A-23a-406(c) are issued in the transaction between Seller "A" and Buyer "B", and one or more policies of title insurance required under Section 31A-23a-406(c) are issued in the transaction between Buyer "B" and Buyer "C";]~~

~~[(4)] [(2) Buyer ["B"] must close with Buyer ["B's"] own good funds and record[,], so that Buyer ["B"] is in title prior to the second transaction closing and recording.]~~

~~[The above structure insures compliance with 31A Section 31A-23a-406 and R592-6-4. (See Illustration 1).]~~

R592-16-5. Prohibited Escrows of Flip Transactions.

Except as allowed under R592-16-4, title insurers, agency title insurance producers, and individual title insurance producers are prohibited from conducting any escrows involving a land flip. ~~[(See Illustration 2).]~~

R592-16-6. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

R592-16-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: escrow insurance flip

Authorizing, Implemented, or Interpreted Law: 31A-2-404(2)